



## Indiana Home Inspector Licensing Board

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Governor Mitchell E. Daniels, Jr.

### Home Inspector Letter 2005 – 1

To: All Indiana licensed home inspectors

From: Home Inspectors License Board (HILB)

July 1<sup>st</sup> has arrived and we are now licensed home inspectors. For most of us the process was not difficult and the application only took a little time and effort. At this writing, we have approved 286 home inspector license applications. It appears that a majority of the practicing home inspectors were aware of and met the July 1st deadline.

The HILB wants to communicate to you from time to time. This is in order to provide you with timely, appropriate and relevant information. We plan on using email as much as possible for those of you with email and regular mail for those who do not. We will be discussing various parts of the statute and administrative rules, and our interpretations of what they require. You may obtain your very own copy of the statute and administrative rules from the Home Inspector License Board Website. [www.in.gov/pla/bandc/home](http://www.in.gov/pla/bandc/home) HILB wants you to achieve compliance with the statute and rules.

To that end, we suggest that you review and understand the requirements of the following:

Caution this is not a complete study of the regulations.

Statute IC 25 – 20.2-1 thru IC 25 – 20.2-9

#### Chapter 1. Application of Article

##### IC 25-20.2-1-1 Application of article; exclusions

Sec. 1. (a) This article applies to an individual who conducts home inspections for compensation.

(b) This article does not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

(A) a code enforcement official for the state or a political subdivision of the state; or

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development.

(2) An individual who is:

(A) either:

(i) registered as an architect under IC 25-4;

(ii) registered as a professional engineer under IC 25-31; or

(iii) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5; and

(B) acting within the scope of the individual's registration or license.

(3) An individual who is licensed under IC 25-34.1 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license.

(4) An individual who is licensed or certified under IC 25-34.1 as a real estate appraiser and is acting within the scope of the individual's license or certificate.

(5) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.

(6) An individual who holds a permit, certificate, or license to:

(A) use and apply pesticides; or

(B) make diagnostic inspections and reports for wood destroying pests;

under IC 15-3-3.6 and is acting within the scope of the individual's certificate or license.

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license.

*As added by P.L.145-2003, SEC.7.*

Chapter 2 – Commentary. This chapter provides the most important definitions. You should pay particular attention to these two.

## Chapter 2. Definitions

### IC 25-20.2-2-6 "Home inspection"

Sec. 6. "Home inspection" means a visual analysis for the purpose of providing a professional opinion of the condition of a residential dwelling and the dwelling's carports or garages, any reasonably accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for the following components:

- (1) Heating systems.
- (2) Cooling systems.
- (3) Electrical systems.
- (4) Plumbing systems.
- (5) Structural components.
- (6) Foundations.
- (7) Roof coverings.
- (8) Exterior and interior components.
- (9) Any other site aspects that affect the residential dwelling.

The term does not include a code compliance inspection.

*As added by P.L.145-2003, SEC.7.*

**Commentary.** – This definition clearly states the purpose of the inspection is to provide a professional opinion of the condition of a residential dwelling, its garages and installed components. It also clearly states that the term does not include a code compliance inspection.

Those of you who use terms in your report containing code, building code, code references, etc. should end that practice. However, you may determine that the condition of components or systems within a home to be significantly deficient or unsafe as defined in the Rules. Be careful, as code compliance of homes is grandfathered to the code in effect at the time of construction.

For instance, It may be your personal opinion that GFCI protected outlets should be required in all the locations required in today's building code. You would be wrong to report unsafe or significantly deficient properly functioning regular duplex outlets in an original 1960's Kitchen and Bathroom just because they are not GFCI protected. Another way to report this would be to advocate upgrading these outlets to today's standards by providing ground fault protection.

### IC 25-20.2-2-7 "Home inspection report"

Sec. 7. "Home inspection report" means a legibly written report prepared for compensation and issued after a home inspection. The report must include the following:

- (1) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient or near the end of the system or component's service life. A report under this subdivision must include the reason why the system or component is significantly deficient or near the end of the system or component's service life, unless the reason is self-evident.

(2) The inspector's recommendation to remedy or monitor a deficiency reported under subdivision (1).

(3) A list of any systems or components that were designated for inspection in the standards of performance adopted by the board but that were not inspected.

(4) The reason a system or component listed under subdivision (3) was not inspected.

(5) A statement that the report does not address environmental hazards, including:

- (A) lead-based paint;
- (B) radon;
- (C) asbestos;
- (D) cockroaches;
- (E) rodents;
- (F) pesticides;
- (G) treated lumber;
- (H) mold;
- (I) mercury;
- (J) carbon monoxide; or
- (K) other similar environmental hazards.

(6) A statement that the report does not address wood destroying insects and organisms.

(7) A statement that the report does not address subterranean systems or system components (operational or nonoperational), including:

- (A) sewage disposal;
- (B) water supply; or
- (C) fuel storage or delivery.

*As added by P.L.145-2003, SEC.7.*

Commentary. – There are several key requirements set forth in this definition. They are:

#### Paragraph 1

- ◆ You must issue a legibly written or printed report.
- ◆ You must report on any system or component that in your professional opinion is significantly deficient or near the end of the system or component service life. More importantly, you must tell you client “WHY”

#### Paragraph 2

- ◆ You must make a recommendation to remedy or monitor a deficiency reported in paragraph 1. Some of you are not doing this. You report a deficiency and do not provide any written guidance on (1) how important it is. Or (2) any recommendation of whether to repair or replace. And (3) when the deficiency needs to be repaired or replaced. You will find the above restated in Rule 1 Standards of Competent Practice. You should structure your report to include this requirement and the above elements.

#### Paragraphs 3 & 4

- ◆ Of course you will tell us what of the required systems and components you did not inspect and “WHY”

#### Paragraphs 5, 6 & 7

- ◆ These paragraphs state what is not a part of the home inspection and is not required to be inspected for. You must include these three (3) statements in

your report or your contract if it is a part of your report. If, you chose to include some of them in your inspection and subsequent report. You must make specific references in the report or contract that those items are included (i.e. radon test, mold test, mold inspection, termite inspection, well inspection, septic inspection, water tests, etc.) and the limits for each. You should also review the Rule 2 Section 1(c)(2).

The HILB has adopted a report checklist to assist you in getting your reports in compliance. You can obtain it from the HILB website.

## **Administrative Rules**

### **Rules of the Home Inspectors Licensing Board**

#### **Title 878 Indiana Administrative Code**

**Rule 1 – Commentary.** This rule provides the important definitions. You should pay particular attention to these two.

#### **Rule 1. Definitions**

##### **878 IAC 1-1-19 “Significantly deficient” defined**

**Authority:** IC 25-20.2-3-8

**Affected:** IC 25-20.2

Sec. 19. “Significantly deficient” means unsafe or not functioning.

*(Home Inspectors Licensing Board; 878 IAC 1-1-19; filed Apr 18, 2005, 12:15 p.m.: 28 IR 2720)*

##### **878 IAC 1-1-25 “Unsafe” defined**

**Authority:** IC 25-20.2-3-8

**Affected:** IC 25-20.2

Sec. 25. “Unsafe” means a condition in a readily accessible, installed system or component that is judged to be a significant risk of personal injury during normal, day-to-day use. The risk may be due to:

- (1) damage;
- (2) deterioration;
- (3) improper installation; or
- (4) a change in accepted residential construction standards.

*(Home Inspectors Licensing Board; 878 IAC 1-1-25; filed Apr 18, 2005, 12:15 p.m.: 28 IR 2721)*

**Commentary – This definition is key in determining the condition of the systems or components**

#### **Rule 2. Minimum Standards of Competent Practice and Code of Ethics**

##### **878 IAC 1-2-1 Minimum standards of competent performance of home inspections**

**Authority:** IC 25-20.2-3-8; IC 25-20.2-3-9

**Affected:** IC 25-20.2

(C) identify on the written report:

- (i) licensee’s name;
- (ii) licensee’s Indiana license number;
- (iii) address of inspected residential dwelling;
- (iv) name of client for whom the inspection is being prepared; and
- (v) date of inspection.

**Commentary – You must include the above information in every report.**

(2) These minimum standards of competent performance are not intended to limit licensees from:

(A) including other inspection services, systems, or components in addition to those required by these minimum standards of competent performance;

(B) specifying repairs, provided the licensee is appropriately qualified and willing to do so; or

(C) excluding systems and components from the inspection if requested by the client.

Commentary – This section tells you that you can exceed the standards or exclude certain items if you choose. As mentioned previously, it is necessary that you tell us in the report when you are doing this.

**878 IAC 1-2-2 Code of ethics for home inspectors**

**Authority:** IC 25-20.2-3-8; IC 25-20.2-3-9

**Affected:** IC 25-20.2

Sec. 2. (a) Integrity, honesty, and objectivity are fundamental principles embodied in this code of ethics, which sets forth obligations of ethical conduct for the home inspection profession. The home inspectors licensing board has adopted this code of ethics to provide high ethical standards to safeguard the public and the profession.

(b) Licensees shall:

- (1) comply with this code of ethics;
- (2) avoid association with any enterprise whose practices violate this code of ethics;
- (3) strive to uphold, maintain, and improve the integrity, reputation, and practice of the home inspection profession; and
- (4) avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity.

(c) Licensees shall not:

- (1) inspect properties:
  - (A) for compensation in which they have, or expect to have, a financial interest; or
  - (B) under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on

the sale of property;

- (2) directly or indirectly compensate realty agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or inclusion on a list of recommended inspectors, preferred providers, or similar arrangements;
- (3) receive compensation for an inspection from more than one (1) party unless agreed to by the client or clients;
- (4) accept compensation, directly or indirectly, for recommending contractors, services, or products to inspection clients or other parties having an interest in inspected properties; or
- (5) repair, replace, or upgrade, for compensation, systems or components covered by the minimum standards of competent performance found in section 1 of this rule for one (1) year after the inspection.

(d) Licensees shall:

- (1) act in good faith toward each client and other interested parties;
- (2) perform services and express opinions based on genuine conviction and only within their areas of education, training, or experience; and
- (3) be objective in their reporting and not knowingly understate or overstate the significance of reported conditions.

(e) Licensees shall not disclose inspection results or client information without client approval. Licensees, at their discretion, may disclose observed immediate safety hazards to occupants exposed to such hazards when feasible.

(f) Licensees shall avoid activities that may harm the public, discredit themselves, or reduce public confidence in their profession.

(g) Advertising, marketing, and promotion of licensees services or qualifications shall not be fraudulent, false, deceptive, or misleading.

(h) Licensees shall report substantive and willful violations of:

- (1) this code of ethics; and
- (2) the minimum standards of competent performance found in section 1 of this rule.

(Home Inspectors Licensing Board; 878 IAC 1-2-2; filed Apr 18, 2005, 12:15 p.m.: 28 IR 2724)

Commentary – In (d)(3) Be careful to be objective in your reporting.

Commentary – In (e), Be diligent in obtaining your clients permission in writing to disclose, discuss or distribute your inspection report to any one. Some times It would be a good idea to obtain this before the inspection begins.

In closing, we have discussed only a few of the requirements of the Statute and Administrative Rules. We encourage you to read and understand them. You can ask the HILB for interpretations about the various sections of the Statute and Rules. When requesting an interpretation, email or sent the request to the HILB in care of the IPLA and not to the individual board members.

Sincerely,

Danny Maynard, Chairman  
Indiana Home Inspector Licensing Board